

DEPARTMENT OF THE ARMY PERMIT

Permittee \_\_\_Pueblo of Santa Ana

Permit No. \_\_\_2003 00365

Issuing Office \_\_\_Albuquerque District Corps of Engineers

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

**Project Description:** The project will involve the construction of a low-head

PVC or fiberglass sheetpile weir in the Jemez River, approximately 2.5 miles upstream of Jemez Canyon Dam, extending approximately 3,900 feet from north to south across the river channel. The individual sheetpiles in the weir will be vibrated into the riverbed with an HMC 3 Vibratory Driver/Extractor to a depth of 25 feet, with the top edge of the pile extending above the riverbed approximately two feet. A rock apron, from twenty five to thirty feet in width and a length of 348 feet, will be placed downstream of the weir for scour and erosion protection. Two wing dikes or earthen berms will flare out from the weir in an upstream direction to direct flows through the weir. The wing dikes/earthen berms will extend upstream approximately 150 feet and will consist of sand, silt and clay obtained from two borrow sites located near the Jemez Canyon Dam. An existing unimproved access road will be used for construction access to the site. Two low water crossings and five culvert crossings will be installed in this road to facilitate its use during construction. The total quantity of fill material used for the project will include approximately 1,850 cys of rock (to be obtained from an existing quarry near the Jemez Canyon Dam) and 4,000 cys of sand, silt, clay, and soil cement. The project will be constructed in accordance with the attached drawings, entitled, "Weir Construction in the Jemez R. at Santa Ana Pueblo, Sandoval County, NM, Appl. by Pueblo of Santa Ana, Appl. No. 2003 00365," sheets 1 through 9, dated June 2003.

**Project Location:** The project is located in the Jemez River, approximately 2.5 miles upstream of the Jemez Canyon Dam, within the Santa Ana Pueblo, Sandoval County, New Mexico, in Sections 26 and 35, Township 14 North, Range 3 East (35° 24.4' N Latitude, 106° 35.4' W Longitude) .

**Permit Conditions:** General Considerations

1. The time limit for completing the work authorized ends on December 31, 2006. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

After a detailed and careful review of all of the conditions contained in this permit, the permittee acknowledges that, although said conditions were required by the Corps of Engineers, nonetheless the permittee agreed to those conditions voluntarily to facilitate issuance of the permit; the permittee will comply fully with all the terms of all the permit conditions.

1. Existing roads and right-of-ways should be used to the greatest extent practicable to transport equipment and construction materials to the project site. Vehicles should use designated turnaround areas and should avoid travelling through wetland and bosque habitat except where necessary for project construction.
2. Compacted soils should be scarified prior to planting to promote water retention and seed germination. Only uncontaminated earth or alluvium suitable for revegetation should be used for backfill areas.
3. To prevent the introduction of exotic plants, construction equipment should be inspected and, if necessary cleaned to remove contaminated soils prior to arrival at the construction site.
4. Any native riparian vegetation unavoidably lost during construction should be mitigated at a 4:1 replacement ratio and a 1:1 ratio of nonnative species.
5. Silt curtains, settling basins, or other suitable measures to control turbidity will be used at staging areas.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to: ( ) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(x) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413). 2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law. b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions

of this permit.

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Daniel Malanchuk

DATE) Chief, Regulatory Branch  
(for the DISTRICT ENGINEER)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.